



Nez Perce

SENATE FISH AND GAME

EXHIBIT NO. 2

DATE 1-31-13

BILL NO. SB 143

TRIBAL EXECUTIVE COMMITTEE

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**MONTANA LEGISLATURE
SENATE FISH AND GAME COMMITTEE
TESTIMONY OF MCCOY OATMAN
NEZ PERCE TRIBAL EXECUTIVE COMMITTEE
JANUARY 31, 2013 HEARING ON SENATE BILL 143**

Thank you Chairman Brenden for the opportunity to address the Committee today. Good afternoon, my name is McCoy Oatman. I am a member of the Nez Perce Tribal Executive Committee, the governing body of the Nez Perce Tribe, and I also serve as the Chairman of the Natural Resources Subcommittee. I am here on behalf of the Nez Perce Tribe to testify in opposition to Senate Bill 143.

The Nez Perce Tribe is a federally-recognized Tribe with a Reservation in north-central Idaho. The Nez Perce Tribe's aboriginal territory encompasses over 13 million acres in what are now north-central Idaho, northeast Oregon, southwest Washington, and parts of Montana. Since time immemorial the Nez Perce people have fished, hunted, gathered and pastured on these lands and we continue to engage in these practices today. One of the principal species the Tribe hunted was buffalo. Buffalo are a culturally significant animal to the Nez Perce people, and is an important food in the traditional Nez Perce diet. Historically Nez Perce people would make the long journey east on the Lolo Trail across the Bitterroot Mountains into Buffalo Country in what is now Montana. Here the Nez Perce hunted buffalo along with their neighbors the Salish and Kootenai, Umatilla and other tribes, sometimes staying for years at a time.

In 1855 the United States entered into a treaty with the Nez Perce Tribe. In Article 3 of that treaty, the Nez Perce Tribe reserved, and the United States secured, among other guarantees,

the right to take fish at all usual and accustomed fishing places, together with the right to hunt, gather and pasture animals on open and unclaimed land. The right to hunt buffalo on open and unclaimed land – what courts have determined includes public land – was explicitly reserved to the Tribe. In the minutes of the 1855 Treaty negotiations at Walla Walla, Washington that culminated in the 1855 Treaty, Governor Isaac Stevens, the principal negotiator for the United States, expressly assured the Nez Perce leaders that the Tribe can kill game and go to the Buffalo when they please on any of the lands not occupied by white settlers. Governor Stevens made this promise to Chief Looking Glass, one of the principal Nez Perce Chiefs of whom I am a direct descendent.

In 2006 the Nez Perce Tribe re-initiated its treaty buffalo hunt in the Greater Yellowstone Area with the support of the State of Montana. Since then, the Tribe has established an annual treaty buffalo hunt, targeting bison that exit Yellowstone National Park and occupy Gallatin National Forest System lands on the north and west sides of the Park. Each year before the hunt the Tribe meets with the State of Montana, the Confederated Salish and Kootenai Tribes, the Confederated Tribes of the Umatilla Indian Reservation and the Shoshone Bannock Tribes for the purpose of coordinating our respective seasons to ensure a safe and responsible hunt.

In 2009 the Interagency Bison Management Plan, a consortium of Montana state and federal agencies tasked with managing bison in the Greater Yellowstone Area, invited the Tribe to join as a partner based on the Tribe's treaty-reserved interests in Yellowstone buffalo. Since then, the Tribe, along with the Confederated Salish and Kootenai Tribes and Intertribal Buffalo Council, have actively participated on the IBMP.

Given this background, the Tribe opposes SB 143 for several reasons. First, the bill directly interferes with the Tribe's 1855 Treaty-reserved right to hunt buffalo on open and

unclaimed lands in Montana. By preventing bison from entering Montana and occupying public lands where they are available for treaty harvest, SB 143 will significantly diminish, if not outright prevent, the Tribe's legal right to hunt these animals. SB 143 is therefore incompatible with the rights the Tribe reserved, and the United States secured, in the 1855 Treaty which under Article 6 Clause 2 of the United States Constitution is the Supreme Law of the Land.

Second, SB 143 is inconsistent with the IBMP's goal to maintain a free-ranging population of bison in Montana while preventing the transmission of brucellosis from bison to cattle. Since the Record of Decision was signed in 2000 by the State of Montana, the Park Service, U.S. Forest Service, and APHIS, the IBMP has managed bison in the Greater Yellowstone Area according to the Record of Decision. The Nez Perce Tribe joined the IBMP in 2009 in the spirit of cooperation to work with the other sovereigns within the framework of the Record of Decision to manage bison in the Greater Yellowstone Area. By preventing bison from entering the State of Montana, SB 143 violates a core IBMP principle under which the partners have been managing bison for over a decade.

Finally, SB 143 will injure the relationship between the State of Montana and the Nez Perce Tribe. The Nez Perce Tribe and State of Montana enjoy a positive relationship based on cooperation and respect. This relationship is particularly evident given our governments' demonstrated success in coordinating our respective bison hunts in a way that respects each sovereign's authorities and traditions while ensuring a safe and responsible bison hunt for our citizens. The Tribe looks forward to continuing this relationship with the State of Montana into the future. However, the Tribe views SB 143 as a negative gesture that does not respect or acknowledge our Tribal culture and treaty-reserved rights. SB 143 will unravel our

achievements and compromise the good will between our governments. Accordingly, I respectfully urge this Committee not to adopt SB 143. Thank You.